

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF HUMAN SERVICES

In the Matter of the Denial of the License
Application of Timothy and Evonne Thode

FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION

The above matter came on for hearing before Administrative Law Judge George A. Beck on Thursday, January 13, 2005 at 9:30 a.m. at the Office of Administrative Hearings in Minneapolis, MN. The record closed on the date of the hearing.

Margaret L. Gustafson, Special Assistant County Attorney, 50 West Kellogg Blvd., Suite 560, St. Paul, MN 55102-1556 appeared on behalf of the Department of Human Services and the Ramsey County Community Human Services Department. There was no appearance at the hearing by or on behalf of Timothy or Evonne Thode.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Human Services will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Kevin Goodno, Commissioner, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

STATEMENT OF ISSUE

The issue in this case is whether or not the applicants were free of chemical use problems for the two years preceding the application.

Based upon all of the proceedings in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Notice of and Order for Hearing in this matter was originally served upon Timothy and Evonne Thode on October 14, 2004 setting a hearing for November 4, 2004. The hearing date was subsequently continued twice in order to allow the parties to discuss a settlement of this matter.

2. By a letter dated December 17, 2004, the Administrative Law Judge advised both parties that the matter would be heard January 13, 2005 at 9:30 a.m. at the Office of Administrative Hearings and stated that no further continuances would be granted.

3. The Notice of and Order for Hearing advised the applicants that failure to appear at the hearing would result in the allegations of the Notice of and Order for Hearing, including the incorporated Order, being taken as true.

4. The applicants did not appear at the January 13, 2005 hearing and made no request for a continuance of the matter.

5. That the allegations of the Notice of and Order for Hearing including Exhibit A attached to it, are deemed proved and incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Commissioner of Human Services and the Administrative Law Judge have jurisdiction in this matter under Minn. Stat. § 14.50 and 245A.08.

2. The Department of Human Services gave proper and timely notice of the hearing in this matter.

3. The Department and Ramsey County have complied with all substantive and procedural requirements of law and rule.

4. Under Minn. Stat. § 245A.05, the Commissioner may deny a foster care license application if the applicant fails to comply with applicable laws or rules or knowingly withholds relevant information from or gives false or misleading information to the Commissioner.

5. Minn. Rules pt. 2960.0360, subp. 3 requires an applicant to sign a statement that they have been free of chemical use problems for the past two years.

6. That the burden of proof is upon an applicant to demonstrate compliance with applicable rules and statutes.

7. That the record does not demonstrate that the applicant and adult household members have been free from chemical use problems for the two years preceding the application.

8. That the Department appropriately denied the application of Evonne and Timothy Thode for a foster care license.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: That the Commissioner of Human Services DENY the license application of Timothy and Evonne Thode and that their appeal of the denial be DISMISSED.

Dated this 18th day of January 2005.

/s/ George A. Beck

GEORGE A. BECK

Administrative Law Judge

Reported: Taped.
(One Tape)
Default